

EXHIBIT 7: Hart Deposition

Washington v. Buraker, et al
Depo of: Sheriff Harlan Lee Hart

January 29, 2004

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF VIRGINIA

3 Charlottesville Division

4 *****

5 EARL W. WASHINGTON, JR.,

6

7 Plaintiff,

8 -vs-

CASE NO.
3:02cv00106

9

10 KENNETH H. BURAKER, et al.,

11

Defendants.

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13

14 DEPOSITION OF SHERIFF HARLAN LEE HART

15

1:47 p.m. - 5:59 p.m.

16

January 29, 2004

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Charlottesville, Virginia

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REPORTED BY: JoRita B. Meyer, RMR, CRR

COPY

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1 A. Yes, sir.

2 Q. Do you recall how that came to your
3 attention?

4 A. I believe it was on Saturday afternoon,
5 I was at home, I received a phone call from the
6 department, and I was supposed to return a phone
7 call to Fauquier. If memory serves me correct, I
8 did so, I spoke with a Terry -- I mean, Terry
9 Schrum; and that's where the initial investigation
10 began with Mr. Washington.

11 Q. All right. Do you recall with any
12 specificity what words Mr. Schrum used?

13 A. The --

14 MR. GOULD: Are you asking the witness
15 to quote?

16 MR. HALL: The question is
17 self-evident, Jack.

18 MR. GOULD: Object to the form.

19 THE WITNESS: The wording --
20 approximately, it may not be exact -- was that
21 we have an individual over here who claims he
22 either, I think, raped or stabbed a woman in a
23 Culpeper complex or stabbed -- or raped and
24 murdered a woman in a Culpeper complex. That
25 was pretty much the extent of the

1 conversation. And if we wanted to come over
2 that afternoon.

3 BY MR. HALL:

4 Q. All right. Are you confident that
5 "raped" was part of the statement or words that
6 Mr. Schrum used?

7 A. I feel pretty confident that was the
8 wording.

9 Q. Did you decide to go that afternoon or
10 the next day?

11 A. We went that afternoon. I went that
12 afternoon.

13 Q. All right. And who all went?

14 A. Special Agent Hugh Elwood with the
15 Virginia State Police.

16 Q. And where did you first meet
17 Mr. Washington?

18 A. That afternoon, I didn't even see
19 Mr. Washington. Went over there, and we decided
20 not to interview Mr. Washington.

21 Q. Okay. Was there a reason why?

22 A. Yes, sir.

23 Q. And what was that?

24 A. He had been up most of the night, no
25 rest, and we just didn't think it would be

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1 appropriate, not having rested:

2 Q. Did Mr. Schrum or any other member of
3 the Fauquier County Sheriff's Department provide
4 you any notes of their interviews with him?

5 A. I don't recall that. Mostly what I
6 recall was verbal. I don't really know the exact.

7 Q. Okay. When you arrived there, did Mr.
8 Schrum -- or I think the other deputy was a Dennis
9 Zeets?

10 A. Yes, sir, that's correct.

11 Q. Anybody else from the sheriff's
12 department there involved in the discussions with
13 you when you arrived?

14 A. They were the only two, I believe.

15 Q. Okay. Did either one of them elaborate
16 on what they had learned about Mr. Washington?

17 A. The only thing I can recall was why he
18 was there, what the offense is, and that would be
19 the most I could -- that's probably the most I can
20 give you right now. I don't recall anything else
21 other than why he was in their facility and the
22 statement that was made, the reason why we went,
23 had gone over there.

24 Q. And did you have occasion at that time
25 to meet or talk with Allen Cubbage of the

1 Warrenton Police Department?

2 A. You know, I may have, but I don't
3 recall that. I'm not saying I didn't, but I don't
4 recall that.

5 Q. Did you know these folks ahead of time,
6 Mr. Schrum, Mr. Zeets, Mr. Cubbage?

7 A. No, sir. I may have heard of Mr.
8 Schrum. Now, Allen Cubbage, I did have the
9 occasion to cross his path. I feel certain of
10 that. I don't know when, where.

11 Q. Okay. In the context of this meeting,
12 did Mr. Schrum or Mr. Zeets tell you how they had
13 come to take Mr. Washington into custody?

14 A. I believe so. I believe so.

15 Q. And that they had charged him at
16 that -- by that time with the breaking and
17 entering of the home of Hazel Weeks?

18 MR. GOULD: I'm going to -- excuse me,
19 Bob, are you done with the question?

20 MR. HALL: Huh?

21 MR. GOULD: Are you done? I didn't
22 want to interrupt, but I have an objection.

23 MR. HALL: No, that's all right.

24 MR. GOULD: I'm just going to object to
25 foundation and a belated objection to the

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1 earlier question as well.

2 THE WITNESS: Yes, sir, Ms. Weeks' name
3 did come up.

4 BY MR. HALL:

5 Q. Did they indicate to you that he had
6 also confessed to the rape and robbery of a Lynn
7 Rawlings in Warrenton?

8 A. I don't recall that one at that time.

9 Q. Or the attempted rape of a Cynthia
10 Hecker?

11 A. I don't -- the only one I was familiar
12 with was Ms. Weeks.

13 Q. Ms. Weeks?

14 A. Yes, sir.

15 Q. Okay.

16 A. If memory serves me correctly.

17 Q. Did Mr. Schrum or Mr. Zeets indicate to
18 you how they had happened to turn Mr. Washington's
19 attention to the murder of Rebecca Williams?

20 MR. GOULD: I'm going to object to the
21 form of that question.

22 THE WITNESS: I believe Mr. Washington,
23 after they had interviewed --

24 MR. BENNETT: Just a second. Let's
25 take a break.

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1 night's sleep.

2 And we got back, we notified, I
3 believe, at that time Special Agent Rodney Grimes,
4 who was in charge of the BCI with the state
5 police, and also may have had a discussion
6 probably with Special Agent Reese Wilmore; and we
7 scheduled to go back the next day.

8 Q. About what time did you get back the
9 next day?

10 A. Ballpark, around 9 o'clock the next
11 morning.

12 Q. Who all attended with you?

13 A. It was Special Agent Reese Wilmore and
14 myself.

15 Q. All right. And you met Mr. Washington
16 for the first time?

17 A. Yes, sir, that's correct.

18 Q. When you first met him, were Deputies
19 Schrum and Zeets in attendance, or were you merely
20 introduced to Mr. Washington?

21 A. I believe we were just introduced.
22 They didn't sit in on that interview.

23 Q. And the interview was conducted where,
24 sir? In his cell, or in an interview room?

25 A. It was in an interview room in the

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1 Fauquier County Sheriff's Office.

2 Q. Prior to this meeting, had you ever
3 heard Mr. Washington's name involved in any law
4 enforcement issues?

5 A. Not since the night before, you know,
6 no, sir.

7 Q. And approximately how long did you talk
8 with him on that occasion?

9 A. That day?

10 Q. That day, yes.

11 A. Talk, or spend time with him?

12 Q. Either.

13 A. We spent probably from 10 o'clock until
14 that afternoon, we came back to Culpeper around 2,
15 2:30, and he parted, I don't know the exact time,
16 I would say 6 or 7. That would be an estimate. I
17 could be wrong on that.

18 Q. About what time did you transport him
19 back to Culpeper?

20 A. I believe it was --

21 MR. GOULD: Objection to form and, I'm
22 sorry, foundation -- sorry, strike that.

23 THE WITNESS: Yes, sir.

24 BY MR. HALL:

25 Q. Go ahead.

1 background?

2 A. Yes, sir.

3 Q. And what he was doing for a living and
4 that sort of thing?

5 A. Yes, sir.

6 Q. Okay. And did you write down anywhere
7 how much schooling he had had or if he had quit
8 school, why, and that sort of thing?

9 A. No.

10 MR. BENNETT: I'm going to object to
11 the form of that question. He's said there
12 were no notes taken during the informal
13 interview.

14 THE WITNESS: There were no notes taken
15 during the informal interview. But the
16 education did come out in the statement that
17 was given by Mr. Washington.

18 BY MR. HALL:

19 Q. Did he seem slow to you?

20 MR. GOULD: Objection to form.

21 THE WITNESS: I would say he did appear
22 to be a bit uneducated, not being derogatory.

23 MR. HALL: Jack, I won't take your form
24 objection to everything, but this is a party
25 witness and I can lead, so if you want a form

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1 Q. This was kind of a high profile case in
2 Culpeper?

3 A. Yes, this was a high profile case. Any
4 homicide, though, would be a high profile case.

5 Q. Did this seem to be particularly brutal
6 in terms of the number of stab wounds, a rape, and
7 a mother of young children? Was it high profile
8 that way?

9 A. It was a case that drew a lot of
10 interest.

11 Q. Okay. Now, had you had anyone suggest
12 to you, prior to Earl's arrest over in Fauquier
13 County, that you ought to look into Earl
14 Washington or consider him a suspect?

15 A. I don't recall Earl's name coming up.

16 Q. Had he been on the Culpeper Police
17 Department radar screen, if you will, for any
18 purpose up to that time? Was he known to the
19 department?

20 A. I didn't know him.

21 Q. Did anyone on the team know him or know
22 of him?

23 A. If they did, his name didn't come up.

24 Q. Okay. Now, Mr. Washington, when he was
25 interrogated, said he was driven to the scene by a

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1 concern, but as time went on, with other variables
2 playing a part in this case, his defense, Billy,
3 and some other things pertaining to this case, the
4 blood work that later came about, all those things
5 played a part -- well, almost: Is it or isn't it?

6 Q. Let's try to limit it right now to May
7 22nd of 1983, and as this is going down, if you
8 will, and Mr. Washington describes the victim as
9 black, but then changes it to white, then he says
10 there wasn't anybody else in the apartment, and
11 you had knowledge that the two children were
12 there?

13 A. Right.

14 Q. Did that raise any flags?

15 MR. GOULD: I'm going to just object to
16 foundation.

17 THE WITNESS: In thinking back, there
18 were some inconsistencies, but there were some
19 things that we felt had a lot of merit to it
20 in the interview.

21 BY MR. HALL:

22 Q. When he said he stabbed her one, two,
23 three, times, and she had 30-some stab wounds, did
24 that raise any flags?

25 A. In law enforcement in 30 years, heat of

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1 passion, sometimes you're not thinking completely.

2 Q. In fact, wasn't it one of the working
3 hypotheses in this investigation that Rebecca
4 Williams was the victim of a crime of passion?

5 A. I think that was mentioned.

6 Q. Did anyone -- I guess you went off to
7 the FBI school in Quantico?

8 A. Yes, sir.

9 Q. Up to this point, had you taken any
10 courses in or were you familiar with an officer
11 who would do psychological profiles of killers,
12 based on the evidence?

13 A. Yes, somewhere this case went through
14 that.

15 Q. And do you know who did the
16 psychological profiling?

17 A. I don't know off the top of my head.

18 Q. The 38 stab wounds, that had -- that
19 was information for the psychological assessment
20 of this case, wasn't it?

21 A. I can't say from a profile -- I'm not a
22 profiler. You know, it could be, could have been.

23 Q. But do you believe that this killer was
24 profiled by someone?

25 A. Yes, I believe this case was profiled

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1 at some time, and I don't recall when.

2 Q. Do you think it was contemporaneous
3 with the investigation in '82, or something done
4 after Washington's arrest?

5 A. I believe it was done -- I might be
6 getting this confused with another homicide I
7 worked prior or was involved in prior, but that --
8 profiling does sound like it may have been
9 involved in this case.

10 Q. Let me turn your attention to the
11 statements that Mr. Washington gave that you
12 viewed as confirmatory of his being the actual
13 perpetrator. What was it that he said that
14 reassured you that, okay, the race of the victim
15 and the number of stab wounds and the absence of
16 people in the apartment and the kicking open the
17 door, those don't fit, but these do; what were the
18 ones that fit?

19 A. I believe he mentioned that the radio
20 was on. We felt he was convincing in some of
21 those questions, the majority of the questions.
22 The shirt. And I have to look at the statement.
23 I could probably point out some others.

24 Q. How about halter top?

25 MR. GOULD: How about what?

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1 BY MR. HALL:

2 Q. Halter top, did Mr. Washington say that
3 he took off her halter top?

4 A. He may have. I would have to look at
5 the statement.

6 Also the back bedroom, I think that was
7 mentioned in the statement as well.

8 Q. But you don't remember the halter top
9 being a particular statement of his that reassured
10 you that these other discrepancies were
11 unimportant?

12 A. Halter top was in the statement or in
13 the interview in some fashion. I don't recall the
14 exact right now. I'd have to look at some
15 document.

16 Q. Have you reviewed a memorandum prepared
17 by Deputy Attorney General John McKlese (ph.) or
18 Assistant Attorney General John McKlese about a
19 conversation with Reese Wilmore?

20 A. I saw a copy of that. I don't have a
21 copy of that.

22 Q. Would you tell me, in as much detail as
23 you can remember, how this shirt was presented to
24 Mr. Washington, who said what, and how
25 Mr. Washington responded?

1 A. If I recall correctly, of course, the
2 shirt was a very important piece of evidence, and
3 of course we wanted him to tell us about the
4 crime, not us tell him. The shirt was asked -- I
5 think -- well, he was asked to the effect, "Did
6 you take or leave anything from the scene?" And
7 we may have went as far as to say a piece of
8 clothing. And that's when he said, "A shirt."
9 But he said, "A shirt."

10 At that point, Investigator Reese
11 Wilmore asked me to go out to the car, because we
12 had the shirt in the car at that time, in a bag,
13 and I brought the shirt back in, and at that
14 point, the shirt was shown to him. And he was
15 asked, "Is this your shirt?" That's where the
16 shirt came from.

17 Q. And he responded yes?

18 A. Yes.

19 Q. And he was asked how he knew that was
20 his shirt?

21 A. Because the patch. And why the patch?
22 Because it was torn off.

23 Q. So I take it the front of the shirt was
24 shown to Mr. Washington, rather than the back of
25 the shirt?

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1 A. After he said he had left the shirt,
2 yes, sir.

3 Q. He said he had left the shirt, you went
4 to the car, brought in the shirt, and
5 Mr. Washington was asked, "Is this the shirt?"
6 And he said yes?

7 A. Yes, sir.

8 Q. Did you ever understand why Mr. Wilmore
9 was concerned about the way the shirt was
10 presented to Mr. Washington?

11 A. Is this the memo you're referring to?

12 Q. Yes, sir, or a conversation that you
13 had with him?

14 A. A conversation?

15 MR. GOULD: Excuse me, I'm going to --
16 I'm sorry, it's getting late.

17 MR. HALL: You'd think this man worked
18 for the Fauquier County Sheriff's Department
19 with all these objections.

20 MR. GOULD: I got to keep myself amused
21 here, Bob, so I can keep myself from falling
22 asleep, so I'm going to make an objection.
23 I'm just not clear what you're asking the
24 witness. I want to make sure he's going to
25 answer you from anything he was told by

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1 Wilmore, not something he's discerning from
2 something he read, if you understand my
3 objection.

4 MR. HALL: He can say, depending on
5 what his answer was, from what source, was it
6 something he said or something he read.

7 BY MR. HALL:

8 Q. I can have her read it back, but let me
9 ask it again. Did you understand what
10 Mr. Wilmore's concern was with the way
11 Mr. Washington had identified the shirt?

12 A. You're talking about the memo that he
13 wrote or he called down or --

14 Q. Yeah, either from your review of his
15 memo or your conversations with him.

16 A. The only conversation pertaining to the
17 shirt was -- we did not have any discussion that I
18 can recall where the shirt was an issue. This is
19 a surprise to me, when I saw this memo.

20 Q. All right.

21 A. And even to go a little further,
22 Mr. Washington said he left the shirt in a dresser
23 drawer. So that -- these are some of the things
24 that I don't know how he could have known.

25 Q. At the time Mr. Washington was

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1 A. I didn't conclude that, no, sir. It's
2 a possibility.

3 Q. In terms of your training as of May
4 22nd of 1983 in the conduct of interrogations, had
5 you had any particularized training in how to
6 identify people with mental disabilities or
7 disorders?

8 A. No, sir.

9 Q. Okay. Had you ever interrogated a
10 child?

11 A. I feel certain I had at sometime.

12 Q. Had you had any special training for
13 how to handle a child when you ask them questions?

14 A. At that time, I don't recall what
15 training I had pertaining to interviewing a child
16 or a retarded -- or a so-called retarded
17 individual.

18 Q. And you observed that Mr. Washington
19 had some limitations, some cognitive impairments?

20 MR. GOULD: Objection; foundation.

21 THE WITNESS: As I have indicated,
22 without being derogatory of Mr. Washington, he
23 appeared to be a bit uneducated.

24 BY MR. HALL:

25 Q. Was it just uneducated, or was he also

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1 slow?

2 MR. GOULD: Asked and answered.

3 MR. BROADDUS: Objection to form, also.

4 THE WITNESS: He was slow in answering
5 some questions, yes, sir.

6 BY MR. HALL:

7 Q. Regarding your informal session that
8 took about an hour, did it take about an hour
9 because he was slow in responding to questions?

10 A. I don't -- to respond to your question,
11 I don't -- I can't say it was because he was slow
12 it took that long. I think we were trying to be
13 as detailed as possible, to find out as much about
14 Mr. Washington as we could.

15 Q. In terms of everything -- let me put it
16 this way. Did you have any -- when you started
17 questioning him and determined that he was
18 undereducated and was slow to answer some
19 questions, did you have any indications to inquire
20 further about his limitations?

21 A. You mean after the confession was
22 obtained?

23 Q. No, during the interrogation itself.

24 A. There may have been some questions that
25 were asked pertaining to his educational

1 background. I don't recall, you know, whether or
2 not we asked if he was -- what type of school he's
3 attending, whether it may be a school for -- the
4 term is --

5 MR. BENNETT: Well, if you don't
6 recall, why are you talking about it?

7 THE WITNESS: Yeah, I don't recall.

8 MR. BENNETT: We've been going right
9 long. Should we take a break? How much
10 longer?

11 MR. HALL: I'm getting down there
12 because it's sunset now. I turn into a
13 pumpkin, so remind me when we're alone and I
14 can tell you a pumpkin joke.

15 MR. GOULD: I don't think you responded
16 to Mr. Bennett's question.

17 MR. BROADDUS: Let's take a break, at
18 least long enough for me to make sure that the
19 cars downstairs aren't getting locked in.

20 MR. HALL: Oh, yes, please.

21

22 (Recess)

23

24 MR. HALL: All right. Let's go back on
25 the record, if that's all right with you.